

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-628

October 23, 2001

REVOLUTION NETWORKS, LLC C/O
NORTHEAST COMPETITIVE
Request for Commission Investigation
of Verizon Conduit Capacity Between
Maine and New Hampshire

NOTICE OF INVESTIGATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we open a formal investigation pursuant to 35-A M.R.S.A. §§ 711 and 1303 into claims by Revolution Networks, LLC. (Revolution) that Verizon Maine (Verizon) has improperly denied it access to certain conduits owned and controlled by Verizon.

II. DISCUSSION

Revolution's request for investigation (September 6, 2001) claims that Verizon has refused to permit Revolution to place its fiber optic cable in a pair of 2 inch conduits owned and controlled by Verizon that are attached to the underside of the Interstate 95 bridge that crosses the Piscataqua river between Kittery, Maine and Portsmouth, New Hampshire.

The conduit obviously runs between two states. The border between Maine and New Hampshire is in the middle of the River and, therefore, in the middle of the bridge. The presiding officer assigned to this case requested the parties to provide memoranda and information that would establish whether we had jurisdiction over Verizon's conduit. Verizon provided information that provides a probable basis for jurisdiction, at least over the portion of the conduit that is in Maine: Verizon Kittery, Maine, exchange is served directly out of its Portsmouth, New Hampshire, central office. Accordingly, Verizon's fiber optic cable inside the conduit carries some intrastate Maine traffic (Kittery to Kittery and Kittery to the rest of the State of Maine). It also carries some interstate traffic. We therefore conclude that the conduit is an intrastate facility and that we have jurisdiction over at least the portion of the conduit that is located in the State of Maine.

Based on our review of the numerous materials filed in this case so far, the dispute appears to be primarily a factual one: will Revolution's cable fit inside the conduits alongside Verizon's cable (which is 1 inch in diameter), and if so, can Revolution's cable be pulled through the conduit without doing damage to Verizon's cable.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.